

plan, has been developed and implemented by the child's third birthday.

(Authority: 20 U.S.C. 1413(a)(15))

LOCAL EDUCATIONAL AGENCY
APPLICATIONS—GENERAL

§ 300.180 Submission of application.

In order to receive payments under part B of the Act for any fiscal year, an LEA must submit an application to the SEA.

(Authority: 20 U.S.C. 1414(a))

(Approved by the Office of Management and Budget under control number 1820-0600)

[57 FR 44798, Sept. 29, 1992, as amended at 58 FR 13528, Mar. 11, 1993]

§ 300.181 [Reserved]

§ 300.182 The excess cost requirement.

An LEA may only use funds under part B of the Act for the excess costs of providing special education and related services for children with disabilities.

(Authority: 20 U.S.C. 1414(a)(1), (a)(2)(B)(i))

§ 300.183 Meeting the excess cost requirement.

(a) An LEA meets the excess cost requirement if it has on the average spent at least the amount determined under § 300.184 for the education of each of its children with disabilities. This amount may not include capital outlay or debt service.

(Authority: 20 U.S.C. 1402(20); 1414(a)(1))

NOTE: *The excess cost requirement* means that the LEA must spend a certain minimum amount for the education of its children with disabilities before part B funds are used. This ensures that children served with part B funds have at least the same average amount spent on them, from sources other than part B, as do the children in the school district taken as a whole.

The minimum amount that must be spent for the education of children with disabilities is computed under a statutory formula. Section 300.184 implements this formula and gives a step-by-step method to determine the minimum amount. Excess costs are those costs of special education and related services that exceed the minimum amount. Therefore, if an LEA can show that it has (on the average) spent the minimum amount for the education of each of its children with disabilities, it has met the excess cost requirement, and all additional costs are ex-

cess costs. Part B funds can then be used to pay for these additional costs, subject to the other requirements of part B (priorities, etc.). In the Note under § 300.184, there is an example of how the minimum amount is computed.

§ 300.184 Excess costs—computation of minimum amount.

The minimum average amount that an LEA must spend under § 300.183 for the education of each of its children with disabilities is computed as follows:

(a) Add all expenditures of the LEA in the preceding school year, except capital outlay and debt service—

(1) For elementary school students, if the child with a disability is an elementary school student; or

(2) For secondary school students, if the child with a disability is a secondary school student.

(b) From this amount, subtract the total of the following amounts spent for elementary school students or for secondary school students, as the case may be—

(i) Amounts the agency spent in the preceding school year from funds awarded under part B of the Act and titles I and VII of the Elementary and Secondary Education Act of 1965; and

(2) Amounts from State and local funds that the agency spent in the preceding school year for—

(i) Programs for children with disabilities;

(ii) Programs to meet the special educational needs of educationally deprived children; and

(iii) Programs of bilingual education for limited English proficient children.

(c) Divide the result under paragraph (b) of this section by the average number of students enrolled in the agency in the preceding school year—

(1) In its elementary schools, if the child with a disability is an elementary school student; or

(2) In its secondary schools, if the child with a disability is a secondary school student.

(Authority: 20 U.S.C. 1414(a)(1))

NOTE: The following is an example of how an LEA might compute the average minimum amount it must spend for the education of each of its children with disabilities, under § 300.183. This example follows the formula in § 300.184. Under the statute